

REMARKS

Claims 1-31 were pending in the present application at the time of the Office Action.

Claims 1-31 stand rejected under U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,157,687 to Tymes ("*Tymes*").

For at least the reasons stated below, the Applicants respectfully traverse the above rejections.

Rejections Under 35 U.S.C. § 102(e)

Claims 1-31 stand rejected under U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,157,687 to Tymes ("*Tymes*"). Without conceding that *Tymes* qualifies as prior art to the present claims, the Applicants respectfully traverse such rejections.

Though the Applicants generally disagree with such rejections, to expedite allowance of various pending claims, the following discussion will focus in part on particular independent and dependent claims and/or portions thereof. Note that such focus is in no way to be construed as the Applicants agreeing with any rejections not specifically discussed below.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Turning first to independent claim 1, such claim is directed to a system for use in a communication network, where the system comprises a mobile computing device. The Office Action, at page 3, states that *Tymes* discloses "A mobile computing device (fig. 1, 15) Comprising: a base module (12, 13, 14) comprising a base processing unit (fig. 3, 30) operable on data in accordance with a set of communication software routines (Col. 6, lines 63-65, which recites CPU 30 access memory 31 according a set communication routines)". The Applicants respectfully disagree with such characterization of *Tymes*. For example, referring to FIG. 1 of *Tymes*, the *Tymes* mobile units 15 and the *Tymes* base stations (12, 13 and 14) are distinctly

different devices. The *Tymes* mobile unit 15 clearly does not comprise any of the *Tymes* base stations (12, 13 or 14) or components thereof.

Additionally, the Office Action at page 3 states that *Tymes* discloses “A mobile computing device (fig. 1, 15) Comprising: ... a first communication transceiver (Fig. 3, 25, 33) comprising a first operating characteristic to conduct data communications on a first of the plurality of subnetworks (Col. 6, lines 47-54, which recites communication adapter 25 and 33 transmit and receive data to and from link 11 considered as a first subnetwork)”. The Applicants respectfully disagree with such characterization of *Tymes*. For example, FIG. 3, to which the Office action refers, is a schematic diagram of a *Tymes* host computer 10 and base station 13. Item 25 is a communication adapter of the *Tymes* host computer 10, and item 33 is a communication adapter of the *Tymes* base station 13. Referring to FIG. 1 of *Tymes*, the *Tymes* mobile unit 15, the *Tymes* host computer 10, and the *Tymes* base station 13 are distinctly different devices. The *Tymes* mobile unit 15 clearly does not comprise the respective communication adapters 25, 33 of the *Tymes* host computer 10 and of the *Tymes* base station 13.

Further, the Office Action at page 3 states that *Tymes* discloses “A mobile computing device (fig. 1, 15) Comprising: ... a communication processor (Fig. 3, 30) coupled between the base processing unit and the first and second communication transceivers (Col. 6, lines 67 – Col. 7, lines 5, which recites CPU 30 is coupled to transceiver 34 and communication adapter 33 via local bus 32)”. The Applicants respectfully disagree with such characterization of *Tymes*. For example, FIG. 3, to which the Office action refers, is a schematic diagram of a *Tymes* host computer 10 and base station 13. Item 30 is a CPU of the *Tymes* base station 13. Referring to FIG. 1 of *Tymes*, the *Tymes* mobile unit 15 and the *Tymes* base station 13 are distinctly different devices. The *Tymes* mobile unit 15 clearly does not comprise the CPU 30 of the *Tymes* base station 13.

Accordingly, for at least the numerous reasons presented above, the Applicants submit that claim 1 is allowable over *Tymes*, as are all claims depending therefrom, including claims 2-10. The Applicants also submit that each of claims 2-10 is independently allowable.

Turning next to claim 2, such claim depends from claim 1 and states, “wherein the communication processor comprises: a first processing unit coupled between the base processing unit and the first communication transceiver for converting data received by the first

communication transceiver to a format for processing by the base processing unit in accordance with the set of communication software routines and for converting data processed by the base processing unit to a format for transmission by the first communication transceiver, and a second processing unit coupled between the base processing unit and the second communication transceiver for converting data received by the second communication transceiver to a format for processing by the base processing unit in accordance with the set of communication software routines and for converting data processed by the base processing unit to a format for transmission by the second communication transceiver”.

Though, the Office Action states that claim 2 is rejected over *Tymes*, the Office Action does not specifically address the elements of claim 2. The Office Action, at page 3, alleges that the *Tymes* base station CPU 30 teaches the claimed “communication processor”. As discussed above, the *Tymes* mobile unit 15 clearly does not comprise the base station CPU 30. Additionally, even if for the sake of argument only, the *Tymes* base station CPU 30 teaches the claimed communication processor of the mobile computing device (which it does not), the Office Action fails to allege that the *Tymes* base station CPU 30 comprises the first and second processing units specified in claim 2 and fails to indicate where *Tymes* provides such a teaching. Accordingly, for at least these additional reasons, the Applicants submit that claim 2 is allowable over *Tymes*.

Turning next to claim 3, such claim depends from claim 1 and states, “wherein the first communication transceiver operates in a wired subnetwork and the second communication transceiver operates in a wireless subnetwork”. The Office Action, at page 4, states that *Tymes* “discloses the system of claim 1 wherein the first communication transceiver operates in a wired subnetwork and the second communication transceiver operates in a wireless subnetwork (Fig. 1, Col. 3, lines 47-51 and Col. 8, lines 36-46, which recites the first transceiver operates in a wired subnetwork 11 and the second transceiver operates in a wireless network)”. The Applicants respectfully disagree with such characterization of *Tymes*.

For example, the *Tymes* mobile unit 15 does not have a transceiver that conducts data communication on communication link 11, which connects the *Tymes* host computer 10 and base stations (12 and 13). As clearly illustrated at FIG. 4, item 44 and discussed at col. 8 lines 41-45, the *Tymes* mobile unit 15 has only one transceiver, and such transceiver only conducts data

communication with the *Tymes* base station 13 over an RF link (not communication link 11). Accordingly, for at least this additional reason, the Applicants submit that claim 3 is allowable over *Tymes*, as are all claims depending therefrom, including claims 4-7. The Applicants also submit that each of claims 4-7 is independently allowable.

Turning next to claim 4, such claim depends from claim 3 (and thus claim 1 also) and states, “wherein the wireless subnetwork comprises a backup network in the event of a failure in the wired subnetwork”. The Office Action, at page 4, states that *Tymes* “discloses the system of claim 3 wherein the wireless subnetwork comprises a backup network in the event of a failure in the wired subnetwork (Fig. 1, where the RF network between base station 14 and base station 13 is considered as the backup network)”. The Applicants respectfully disagree with such characterization of *Tymes*.

In discussing claim 1, from which claim 4 depends, the Office Action alleges that the *Tymes* communication link 11 is the claimed “first subnetwork” and the *Tymes* wireless RF network is the claimed “second subnetwork”. Since, in the analysis of claim 4, the Office Action does not revisit the discussion of the elements of claim 1 that are part of claim 4 through dependency, the Applicants must assume that the Office Action is relying on the analysis of claim 1 for such elements. Such being the case, the Applicants were unable to find any mention of a wireless RF network of *Tymes* being utilized as a backup network in the event of a failure of the communication link 11 of *Tymes*. For example, the Applicants were unable to find any indication in *Tymes* that it is even possible for a wireless RF network of *Tymes* to be utilized as a backup network for the *Tymes* communication link 11. Accordingly, for at least this additional reason, the Applicants submit that claim 4 is allowable over *Tymes*, as are all claims depending therefrom, including claims 5-7. The Applicants also submit that each of claims 5-7 is allowable.

Turning next to claim 5, such claim depends from claim 4 (and thus claims 3 and 1 also) and states, “wherein the communication processor is operable to test the wired subnetwork”. The Office Action, at page 5, states that *Tymes* “discloses the system of claim 4 wherein the communication processor includes test means (Fig. 4, 40) for testing the wired subnetwork (Col. 18, lines 4-19)”. The Applicants respectfully disagree with such characterization of *Tymes*.

For example, there is no indication in *Tymes* that any component of the mobile unit 15 is operable to test the communication link 11 between the *Tymes* host computer 11 and the *Tymes* base stations (12 and 13). The Office Action refers to col. 18 lines 4-19 of *Tymes*. Such section of *Tymes* discusses a portion of the flow diagram of FIG. 11. In particular, *Tymes* discusses that a bar code reader is utilized as a data gathering device. A scan is initiated, bar code data is gathered, and the validity of such data is verified. Such operation has no relationship with testing a wired subnetwork. Accordingly, for at least this additional reason, the Applicants submit that claim 5 is allowable over *Tymes*, as are all claims depending therefrom, including claims 6-7. The Applicants also submit that each of claims 6-7 is independently allowable.

Turning next to claim 6, such claim depends from claim 5 (and thus claims 4, 3 and 1 also) and states, “wherein the communication processor is operable to initiate a test communication by the second communication transceiver and respond to the absence of receipt of a reply test communication by the first communication transceiver following initiation of a test communication by the second communication transceiver by conducting data communications with the second communication transceiver”. The Office Action, at page 5, states that *Tymes* “discloses the system of claim 5 wherein the test means includes means for initiating a test communication by the second communication transceiver and means responsive to the absence of receipt of a reply test communication by the first communication transceiver following initiation of a test communication by the second communication transceiver for conducting data communications with the second communication transceiver (fig. 11, Col. 18, lines 4-29)”. The Applicants respectfully disagree with such characterization of *Tymes*.

For example, the Office Action refers to col. 18 lines 4-29 of *Tymes*. Such section of *Tymes* discusses a portion of the flow diagram of FIG. 11. In particular, *Tymes* discusses that a bar code reader is utilized as a data gathering device. A scan is initiated, bar code data is gathered, and the validity of such data is verified. Upon validation of the gathered bar code data, a packet is formed for transmission upon detection of a clear RF carrier. Such operation has no relationship with test communications, much less responding to the absence of receipt of a reply test communication. Accordingly, for at least this additional reason, the Applicants submit that claim 6 is allowable over *Tymes*, as are all claims depending therefrom, including claim 7. The Applicants also submit that claim 7 is independently allowable.

Turning next to claim 7, such claim depends from claim 6 (and thus claims 5, 4, 3 and 1 also) and states, “wherein the communication processor is further operable to, in response to receipt of a test communication by the second communication transceiver, initiate a test communication by the first communication transceiver”. The Office Action, at page 5, states that *Tymes* “discloses the system of claim 6 wherein the test means further includes means responsive to receipt of a test communication by the second communication transceiver for initiating a test communication by the first communication transceiver (fig. 11, Col. 18, lines 4-20)”. The Applicants respectfully disagree with such characterization of *Tymes*.

For example, the Office Action refers to FIG. 11 and col. 18 lines 4-29 of *Tymes*. Such section of *Tymes* discusses a portion of the flow diagram of FIG. 11. In particular, *Tymes* discusses that a bar code reader is utilized as a data gathering device. A scan is initiated, bar code data is gathered, and the validity of such data is verified. Upon validation of the gathered bar code data, a packet is formed for transmission upon detection of a clear RF carrier. Such operation has no relationship with test communications, much less responding to receipt of a test communication. Accordingly, for at least this additional reason, the Applicants submit that claim 7 is allowable over *Tymes*.

Turning next to claim 8, such claim depends from claim 1 and states, “wherein the communication module is housed in a PCMCIA card”. The Office Action, at page 5, states that *Tymes* “discloses the system of claim 1 wherein the communication module is housed in a PCMCIA card (fig. 4, Col. 8, lines 32-60)”. The Applicants respectfully disagree with such characterization of *Tymes*. For example, the Applicants were unable to find any mention of a communication module of the *Tymes* remote unit 15 being housed on a PCMCIA card (*e.g.*, at col. 8 lines 32-60 or elsewhere. Accordingly, for at least this additional reason, the Applicants submit that claim 8 is allowable over *Tymes*.

Turning next to claim 9, such claim depends from claim 1 and states, “wherein the communication processor is operable to relay communication received by one of its first and second communication transceivers for retransmission by the other of its second and first communication transceivers”. The Office Action, at pages 5-6, states that *Tymes* “discloses the system of claim 1 wherein the communication processor further includes means for relaying communication received by one of its first and second communication transceivers for

retransmission by the other of its second and first communication transceivers (Col. 6, line 63 – Col. 7, line 5)”. The Applicants respectfully disagree with such characterization of *Tymes*. For example, col. 6 line 63 to col. 7 line 5 of *Tymes* discusses operation of the *Tymes* base station, not operation of the *Tymes* mobile unit. As discussed previously, base station operation is not synonymous with mobile device operation. Accordingly, for at least this additional reason, the Applicants submit that claim 9 is allowable over *Tymes*.

Turning next to claim 10, such claim depends from claim 1 and recites, among other things, “the communication processor of each mobile computing device being responsive to an out-of-range condition for the respective mobile computing device to initiate data communications by its said one communication transceiver to another of the plurality of mobile computing devices, the other of the mobile computing devices relaying data communications between the computer and the out-of-range data collection terminal”. The Office Action, at page 6, states that *Tymes* “discloses ... the communication processor of each data collection terminal being responsive to an out-of-range condition for the respective portable data collection terminal to initiate data communications by its said one communication transceiver to another of the plurality of portable data collection terminals, the other of the data collection terminals relaying data communications between the computer and the first-named data collection terminal (Col. 21, lines 27-55)”. The Applicants respectfully disagree with such characterization of *Tymes*.

For example, at col. 21 lines 27-55, *Tymes* discusses handing off a mobile unit between base stations. There is no mention of a mobile unit communicating with another mobile unit. For example, there is no mention of a *Tymes* bar code reader communicating with another *Tymes* bar code reader, for any reason. Accordingly, for at least this additional reason, the Applicants submit that claim 10 is allowable over *Tymes*.

Turning next to claims 11-17, such claims share various characteristics with claims 1-3 and 6-9, discussed previously. Accordingly, the Applicants submit that claims 11-17 are allowable for at least reasons generally analogous to those discussed previously with regard to claims 1-3 and 6-9, respectively and where reasonably applicable.

Turning next to claims 18-24, such claims share various characteristics with claims 1-3 and 6-9, discussed previously. Accordingly, the Applicants submit that claims 18-24 are

Application No.: 10/787,443
Response dated March 11, 2010
Reply to Office Action dated Sept. 22, 2009

allowable for at least reasons generally analogous to those discussed previously with regard to claims 1-3 and 6-9, respectively and where reasonably applicable.

Turning next to claims 25-31, such claims share various characteristics with claims 1-3 and 6-9, discussed previously. Accordingly, the Applicants submit that claims 25-31 are allowable for at least reasons generally analogous to those discussed previously with regard to claims 1-3 and 6-9, respectively and where reasonably applicable.

Final Matters

The Office Action makes various statements, including without limitation statements regarding the pending claims, *Tymes*, and 35 U.S.C. § 102 that are now moot in view of the previous amendments and/or arguments. Accordingly, the Applicants will not address all of such statements at the present time. The Applicants expressly reserve the right to challenge any or all of such statements in the future should the need arise (*e.g.*, if such statements should become relevant by appearing in a future rejection of any claim).

Summary

Based on at least the foregoing, the Applicants believe that claims 1-31 are in condition for allowance. Accordingly, the Applicants courteously solicit a Notice of Allowability with respect to all pending claims. If the Examiner disagrees or has any question regarding this submission, the Applicants respectfully request that the Examiner telephone the undersigned at 312-775-8000.

The Commissioner is hereby authorized to charge any other fees required by this submission or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: March 11, 2010

Respectfully submitted,

/Shawn L. Peterson/
Shawn L. Peterson
Reg. No. 44,286
Attorney for the Applicant

McANDREWS, HELD & MALLOY, LTD.
500 W. Madison, Suite 3400
Chicago, IL 60661
Telephone: (312) 775-8000